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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review)	CC Docket No. 94-1
for Local Exchange Carriers)	
)	
Transport Rate Structure)	CC Docket No. 91-213
and Pricing)	
)	
Usage of the Public Switched)	CC Docket No. 96-263
Network by Information Service)	
and Internet Access Providers)	

OPPOSITION
of the
RURAL TELEPHONE COALITION
to
PETITIONS FOR RECONSIDERATION

Margot Smiley Humphrey
Koteen & Naftalin, LLP
1150 Connecticut Ave., NW
Suite 1000
Washington, DC 20036

David Cosson
L. Marie Guillory
NTCA
2626 Pennsylvania Ave., NW
Washington, DC 20037

Lisa M. Zaina
Stuart Polikoff
OPASTCO
21 Dupont Circle, NW
Suite 700
Washington, DC 20036

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**OPPOSITION
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I. INTRODUCTION AND SUMMARY

The Rural Telephone Coalition (RTC) hereby opposes two requests filed in Petitions for Reconsideration of the First Report and Order, FCC 97-158, in the above-captioned proceeding.¹ The RTC is comprised of the National Rural Telecom Association (NRTA), the National Telephone Cooperative Association (NTCA), and the Organization for the Promotion

¹ Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158 (rel. May 16, 1997) (Access Reform Order).

and Advancement of Small Telecommunications Companies (OPASTCO). Together, the three associations represent more than 850 small and rural telephone companies.

In particular, the RTC opposes AT&T's proposal of an end-user surcharge or a subscriber line charge (SLC) rate increase for universal service fund (USF) recovery in lieu of end-user revenue assessments on carriers. Such an end-user rate increase would fly in the face of the Joint Board's recommendation and the intent of Congress and must not be permitted.

The RTC also opposes WorldCom's request for forbearance from the geographic rate averaging requirements for per-line charges paid by interexchange carriers (IXCs).

WorldCom continues to be unable to show how enforcement of Section 254(g) is not necessary to ensure that toll rates are just and reasonable and not unreasonably discriminatory, not necessary for the protection of consumers, and consistent with the public interest as is required for forbearance under Section 10(a) of the 1996 Act. It is therefore incumbent upon the Commission to continue to enforce the geographic rate averaging provisions of the Act.

II. THE COMMISSION SHOULD ADHERE TO THE JOINT BOARD DECISION REJECTING MANDATORY END USER SURCHARGES AND SLC INCREASES AS A MEANS OF ASSESSING CARRIER CONTRIBUTIONS

AT&T's petition asks that the Commission adopt a mandatory end-user surcharge for USF recovery in the proceeding on CC Docket No. 96-45 or, in the alternative, allow incumbent local exchange carriers (ILECs) flow-back of USF contributions assigned to the Common Line basket to be recovered from end-users via the SLC. AT&T suggests that recovery via the SLC be limited to the extent that actual SLC rates in a study area are below

the SLC caps.² Neither a mandatory end-user surcharge nor a SLC increase meets the requirements of the Act or complies with the Joint Board recommendation outrightly rejecting a federally prescribed end-user surcharge as a means for carriers to recover or pass on universal service contributions.

The state Joint Board members rightly believed that state commissions should have an important role if the imposition of an end-user surcharge would render local rates unaffordable.³ The Commission took the concern of local rate affordability into account in deciding to base contributions on end-user revenues. AT&T has not provided any data or arguments to allay this concern. AT&T incorrectly states that the Commission's sole basis for rejecting a mandatory end-user surcharge was that it would "eliminate carriers' pricing flexibility to the detriment of consumers." It believes the surcharge is competitively neutral because it will ensure that each consumer pay his or her fair share of support.⁴ AT&T misses the essential point that Section 254's "equitable" contribution requirement contains no mandate to pass on equal shares of its contribution obligation to each consumer but, instead requires that all "providers of telecommunications services" make an equitable and nondiscriminatory contribution to the advancement of universal service. 47 U.S.C. §254(b)(4). The Act also requires "reasonably comparable" rates in rural and urban areas. 47 U.S.C. §254(b)(3). AT&T does not show how its proposals would meet this requirement.

2 AT&T Petition, p. 7, n. 12.

3 Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 97-157, (rel. May 8, 1997) (Universal Service Order), para. 252.

4 AT&T Petition, p. 7.

AT&T argues that competitive neutrality is not satisfied because competitive local exchange carriers (CLECs) that enter the local service market through total service resale will not be able to recover any of their USF obligation through access charges paid by IXCs.⁵ AT&T argues that neutrality is violated because resellers will have to pass their assessments onto end-users while ILECs will not. The Commission, however, specifically chose end-user revenue assessments to satisfy competitive neutrality concerns and avoid double payment problems for resellers.⁶ AT&T ignores this fact and other factors affecting ILECs, who, unlike the total service resellers (TSRs) AT&T compares to them, are more likely to have universal service obligations to entire areas and do not have the unrestricted luxury to cream skim or enter and exit markets where they have deployed facilities. Furthermore, given the interconnection and pricing provisions of the Act, an ILEC's ability to pass on universal service assessments is unlikely to be a determining factor in the competition for customers targeted by TSRs.

By concentrating principally on competitive neutrality, AT&T ignores essential elements in the Commission's decision to reject an end-user surcharge. That decision balanced a wide range of factors: the interest of the states in maintaining control over local rates and ensuring affordability (a matter the Commission left to the states to determine),⁷ carriers'

5 AT&T Petition, p. 5.

6 Universal Service Order, para. 845.

7 *Id.*, paras. 110-111.

interest in pricing flexibility,⁸ the administrative simplicity of the end-user revenues method,⁹ and elimination of the double payment problem.¹⁰

III. THERE IS NO BASIS ON WHICH THE FCC CAN FORBEAR FROM THE GEOGRAPHIC RATE AVERAGING PROVISIONS OF SECTION 254(G)

In its Petition for Reconsideration, WorldCom offers no new reasons why the Commission should reconsider its decision to continue to enforce Section 254(g). WorldCom simply refers to its initial comments, which it claims demonstrate that enforcement is “unnecessary to ensure just, reasonable, and not unreasonably discriminatory rates, or to protect consumers, and that, to the contrary, forbearance would lead to more just and reasonable rates and would advance the public interest”¹¹ However, as pointed out in the RTC’s reply comments, WorldCom makes no specific demonstration or record evidence in its initial comments of how the three criteria necessary for forbearance under Section 10 of the 1996 Act would be met.¹² In the Access Order, the FCC concurred with the RTC, stating that “IXCs cite no countervailing public interest considerations but merely make broad, unsupported assertions of the need to deaverage rates in light of the varying [primary interexchange carrier charge] PICC amounts expected to be assessed by incumbent LECs.”¹³ WorldCom offers nothing new in its Petition to change this assessment. Thus, there is no basis for the Commission to alter its conclusion

⁸ *Id.*, para. 853.

⁹ *Id.*, para. 848.

¹⁰ *Id.*, para. 846.

¹¹ WorldCom Petition, pp. 22-23.

¹² RTC reply comments; pp. 9-10.

that WorldCom and other IXC's "have not met the test set forth in Section 10(a) of the Act, and forbearance of Section 254(g) is not warranted."¹⁴

¹³ Access Reform Order, para. 97.

¹⁴ *Id.*

IV. CONCLUSION

For the reasons outlined above, the RTC requests that the Commission deny AT&T's petition for a mandatory end-user charge or SLC increase to replace existing rules on the assessment of end-user revenues. The RTC also requests that the Commission deny WorldCom's petition for forbearance from Section 254(g) of the 1996 Act.

Respectfully submitted,

THE RURAL TELEPHONE COALITION

NRTA

NTCA

OPASTCO

By: Margot Smiley Humphrey By: David Cosson
Margot Smiley Humphrey David Cosson

By: Lisa M. Zaina
Lisa M. Zaina

By: L. Marie Guillory
L. Marie Guillory

By: Stuart Polikoff
Stuart Polikoff

Koteen & Naftalin, LLP
1150 Connecticut Ave. NW
Suite 1000
Washington, DC 20036
(202) 467-5700

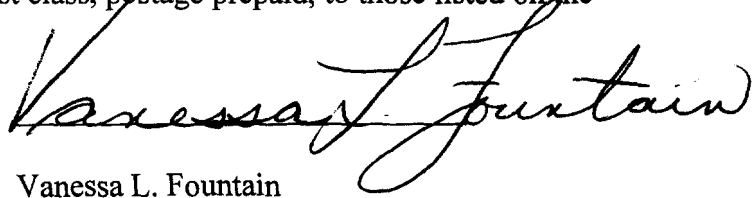
2626 Pennsylvania Ave. NW
Washington, DC 20037
(202) 298-2300

21 Dupont Circle NW
Suite 700
Washington, DC 20036
(202) 659-5990

August 18, 1997

CERTIFICATE OF SERVICE

I, Vanessa L. Fountain, hereby certify that on this, the 18th day of August, 1997, the Rural Telephone Coalition's Opposition to Peititions for Reconsideration were either hand-delivered or deposited in the United States mail, first class, postage prepaid, to those listed on the attached sheet.

A handwritten signature in cursive script, reading "Vanessa L. Fountain", written in black ink. The signature is fluid and stylized, with the first name "Vanessa" and last name "Fountain" clearly legible despite the cursive style. The signature is positioned above the printed name.

Vanessa L. Fountain

SERVICE LIST

Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
Room 518
1919 M Street NW
Washington, DC 20554
(2 copies)

Dorothy Conway
Federal Communications Commission
Room 234
1919 M Street NW
Washington, DC 20554

Timothy Fain
OMB Desk Officer
New Executive Office Building
Room 10236
725 17th Street NW
Washington, DC 20503

Mark C. Rosenblum
Peter H. Jacoby
Judy Sello
AT&T
Room 3245I1
295 North Maple Avenue
Basking Ridge, NJ 07920

Peter A. Rohrbach
David L. Sieradzki
Hogan & Hartson, LLP
555 13th Street NW
Washington, DC 20004-1109

Catherine R. Sloan
Richard L. Fruchterman, III
Richard S. Whitt
WorldCom, Inc.
1120 Connecticut Avenue NW
Washington, DC 20036-3902

Chairman Reed E. Hundt
Federal Communications Commission
Room 814-0101
1919 M Street NW
Washington, DC 20554

Commissioner Rachelle B. Chong
Federal Communications Commission
Room 844-0105
1919 M Street NW
Washington, DC 20554

Commissioner James H. Quello
Federal Communications Commission
Room 802-0106
1919 M Street NW
Washington, DC 20554

Commissioner Susan Ness
Federal Communications Commission
Room 8-2-0104
1919 M Street NW
Washington, DC 20554

ITS
2100 M Street NW
Suite 140
Washington, DC 20037